

UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

Walter Duffy, et al.,

Plaintiffs

v.

ASNY NY, LLC, et al.,

Defendants

Case No. 2:21-cv-01680-CDS-DJA

Order Granting Certain Plaintiffs' Motion  
for Voluntary Dismissal

[ECF No. 96]

This contractual dispute involves 35 plaintiffs who purchased timeshare memberships that allegedly turned out much differently than the various defendants promised. Last month, the parties indicated that they had reached a potential settlement agreement. ECF No. 93. After settlement negotiations failed, twenty-three of the plaintiffs<sup>1</sup> filed a motion to voluntarily dismiss their claims and amend the pleadings to delist themselves from this case. ECF No. 96. Plaintiffs' counsel—the firm of Albright Stoddard Warnick & Albright (ASWA)—concurrently seeks to withdraw from the case because it has not been paid for representing the 35 plaintiffs, despite an agreement to the contrary. A timeshare exit company, Square One, had agreed to cover the litigation expenses for all 35 plaintiffs and was ASWA's client, but it has failed to pay ASWA since April 2022.

The defendants do not oppose either motion, but they have two conditions. ECF Nos. 98, 99. First, they request that before ASWA withdraws from the case, it must file a third-amended

<sup>1</sup> The moving plaintiffs are Walter Duffy, Ana Duffy, Sally Duron, Victor McGee, Angela McGee, Marigold Flowers, Gerardo Rodriguez, Yessenia Rodriguez, Calvin Morrison, Sandra Morrison, Barbara Johnson, Henry Maxwell, Carol Maxwell, John Caputo, Sandra Gerstner, Dee Terrell, Mae Terrell, Roger Workman, Brenda Workman, James Grasse, Rebecca Grasse, Paul Silverman, and Judith Silverman. ECF No. 96 at 2.

1 complaint excluding the 23 plaintiffs who are voluntarily dismissing their claims. Second, they  
2 request that ASWA provide the defendants with updated contact information for the 12  
3 plaintiffs who will remain in the case. Because the parties essentially stipulate to the dismissal of  
4 23 of the plaintiffs, I grant the motion seeking to voluntarily dismiss those plaintiffs' claims.  
5 While I am likewise inclined to grant the motion to withdraw, I agree that the interests of  
6 justice would be served by first requiring ASWA to comply with both aforementioned  
7 conditions.

### 8 Conclusion

9 IT IS THEREFORE ORDERED that certain plaintiffs' motion for voluntary dismissal of  
10 their claims [ECF No. 96] is GRANTED. The Clerk of Court is directed to terminate those 23  
11 plaintiffs from the case.

12 IT IS FURTHER ORDERED that ASWA must file a third-amended complaint that  
13 includes only the allegations and claims related to the remaining 12 plaintiffs, by August 9,  
14 2023.

15 IT IS FURTHER ORDERED that ASWA must provide current contact information for  
16 the remaining 12 plaintiffs to the defendants *and* file a joint stipulation (signed by counsel for  
17 both sides) confirming they have done so, by August 9, 2023. Once these steps are completed, I  
18 will resolve the pending motion to withdraw.

19 DATED: July 20, 2023

20   
21 Cristina D. Silva  
22 United States District Judge  
23  
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